

CHAPTER 10
FEDERAL FAMILY EDUCATION
LOAN PROGRAMS

[Prior to 8/10/88, College Aid Commission, 245—Ch 10]
[Prior to 9/15/93, see 283—Ch 10, "Iowa Stafford Loan Program"]

283—10.1(261) Authority and scope. The following sets forth the rules and procedures through which the college student aid commission (the commission) administers the Federal Family Education Loan Programs (FFELP).

10.1(1) Federal regulations. The federal regulations of the U.S. Department of Education (DE), promulgated pursuant to the Higher Education Act of 1965 (Public Law 89-329), are incorporated by reference as rules of the commission, with noted exceptions. Rules incorporated by reference are Section 34 of the Code of Federal Regulations (34 CFR).

10.1(2) Administration of program. The commission shall distribute to lender and school personnel the "Common Manual—Unified Student Loan Policy" detailing the processes necessary to administer the program on an institutional level.

283—10.2(261) Exceptions. The following are additions to the federal regulations:

10.2(1) Eligibility.

a. Borrower. To be eligible for a Federal Family Education Loan a borrower must be:

- (1) Eligible based on the criteria outlined in the Code of Federal Regulations;
- (2) A resident of the state of Iowa, a student attending an approved educational institution in Iowa, or a resident of another state borrowing from an eligible Iowa-based lender; and
- (3) Free of the obligation to repay overpayments on Iowa education grants.

b. Lender.

(1) General. Banks, savings banks, credit unions, pension funds, insurance companies, and schools that meet the requirements outlined in 34 CFR 682.200 are eligible to be lenders for the FFELP administered by the commission. A single agency of the state of Iowa or a single nonprofit, private agency designated by the state of Iowa also qualifies.

(2) Secondary markets. For the purposes of purchasing, holding, and consolidating loans made by other lenders under the program, the Student Loan Marketing Association and the Iowa Student Loan Liquidity Corporation are also considered lenders. The Iowa Student Loan Liquidity Corporation is also considered a lender for the purpose of originating federal PLUS and SLS loans for borrowers who have obtained prior federal PLUS and SLS loans which are held by the Iowa Student Loan Liquidity Corporation.

(3) Agreements. A lender may participate in the FFELP administered by the commission by executing the Agreement to Guarantee Loans which establishes the rights and duties of the lender and the Iowa college student aid commission. (This form is available from the commission office.) Both the lender and the commission retain original copies of this document.

(4) Restrictions. A lender is not required to make any quota of loans nor to commit any specific amount of funds to the program unless its agreement includes a lender of last resort provision. Iowa-based lenders may make commission-guaranteed FFELP loans to otherwise eligible students who are neither Iowa residents nor attending Iowa educational institutions.

(5) Lender of last resort. A lender of last resort agrees to make loans to all applicants who submit properly completed applications and qualify to receive interest benefits. The agreement may be terminated upon 60 days' notice by the lender or the commission or as provided through limitation, suspension, or termination proceedings.

(6) Limitation, suspension, termination. The commission reserves the right to limit, suspend, or terminate the participation of a lender under terms consistent with the Agreement to Guarantee Loans and applicable state and federal law.

(7) Prior to making a federal consolidation loan under the commission's guarantee, a lender shall ascertain that at least one of the underlying loans to be consolidated was made under Part B or D of the Higher Education Act of 1965 and at least one of the following criteria is met:

1. For a loan consolidation which includes an underlying loan or loans made under Part B of the Act, at least one of the underlying loans must be guaranteed by the commission.

2. For a loan consolidation which does not include a loan or loans made under Part B of the Act, but includes a loan or loans made under Part D of the Act, a lender must ascertain that the borrower is a resident of the state of Iowa at the time of submitting the application for loan consolidation; or that the borrower was a resident of the state of Iowa at the time of submitting the application for the Part D loan; or that the borrower received at least one of the underlying Part D loans while attending an Iowa institution.

(8) A lender may consolidate loans without requesting additional borrowing authority until such time that the total of the underlying loans of a consolidation loan portfolio not guaranteed by the commission equals or exceeds 15 percent of the lender's total outstanding college student aid commission portfolio.

c. School and course of study.

(1) General. Institutions of higher education and vocational schools that are approved by the U.S. Department of Education for participation in the FFELP are eligible to participate in the program administered by the commission.

(2) Correspondence. An institution offering primarily home-study or correspondence courses is not eligible for participation.

(3) Limitation, suspension, and termination. The commission reserves the right to limit, suspend, or terminate the participation of a school under terms consistent with applicable state and federal law.

10.2(2) Guarantee fee.

a. General. The commission's guarantee fee is an amount a borrower pays to the commission for guaranteeing repayment of a loan. The maximum guarantee fee is set by federal statute. The commission's rate is determined by the commission based on an annual analysis of the commission's reserve fund and the requirements of U.S. Department of Education regulations.

b. Fee structure. The amount of the guarantee fee, if assessed, is computed by the commission and reported to a lender on the Notice of Loan Guarantee and Disclosure Statement. Assistance with calculation of guarantee fees is available from the commission office.

10.2(3) Due diligence in collection.

a. General. Lenders are required to follow all federal collection provisions for the FFELP.

b. Iowa notice to cure. While performing collection due diligence, a lender is not required to send the borrower an Iowa notice to cure. However, lenders are encouraged to use this collection device when possible.

c. Rescinded IAB 8/6/03, effective 9/10/03.

10.2(4) Offset against state income tax refund or rebate.

a. General. A claim against a defaulted borrower's state income tax refund or rebate will be made to receive payment against the individual's outstanding defaulted student loan.

b. Certification. The commission shall submit to the department of revenue and finance a list of defaulted borrowers to certify for offset.

c. Borrower notification. The commission shall mail a preoffset notice to a defaulted borrower when:

(1) The commission is notified by the department of revenue and finance that the defaulted borrower is entitled to a state income tax refund or rebate; and

(2) The commission makes claim to the defaulted borrower's state income tax refund or rebate.

The preoffset notice will inform the defaulted borrower of the amount the commission intends to claim and apply to the outstanding defaulted student loan.

d. Challenge of offset. When the defaulted borrower contests a claim, a written request shall be submitted to the commission within 15 calendar days after the preoffset notice is mailed. When the request is received within the 15-day limit, a hearing shall be granted.

e. Spousal share. The spouse's proportionate share of a joint return filed with a defaulted borrower, as determined by the department of revenue and finance, shall be released by the department of revenue and finance unless other claims are made on that portion of the joint income tax refund. The request for release of the spouse's proportionate share shall be in writing and received by the commission within 15 calendar days after the mailing date of the preoffset notice.

f. Claim of offset. The commission may make claim to a defaulted borrower's state income tax refund or rebate when the defaulted borrower has not made a voluntary payment which has been posted to the borrower's account during the 120 days preceding the day an offset tape match is run. A voluntary payment toward a defaulted loan is defined as making an agreed upon monthly payment through a means other than by offset or garnishment.

g. Defaulted accounts only. The commission shall notify a defaulted borrower of the final decision regarding the claim against the tax refund or rebate by mailing a final disposition of offset claim notice to the defaulted borrower.

h. When offset is used. Offsets shall be applied to outstanding defaulted student loan accounts only.

10.2(5) Appeals.

a. General. Borrowers with defaulted student loans may appeal commission decisions to offset their state tax refunds or rebates pursuant to the procedures provided in this rule.

b. Procedures. If a defaulted borrower contests a claim, written appeal shall be presented to the commission's state offset coordinator, setting forth reasons for disagreement. The evidence must be presented within 15 calendar days after notification of the proposed offset, and the appellant may request a hearing.

(1) If no hearing is requested, the state offset coordinator will consider all evidence provided and will notify the appellant within 30 calendar days whether the decision is retracted, modified, or upheld. The appellant will be advised of the appellant's right to carry the appeal to an administrative law judge.

(2) If a hearing is requested, the state offset coordinator will set a date for the hearing no later than 30 calendar days from the date that the request was received.

(3) An administrative law judge will preside at the hearing and will consider any written material presented before the hearing as well as other evidence presented during the course of the hearing.

(4) After considering all evidence presented, the administrative law judge will notify the appellant in writing as to the decision on the appeal, advising the appellant of the appellant's right to carry the appeal to a full meeting of the commission or to its appointed appeals panel.

c. Additional provisions. Except as specifically provided in this rule, administrative hearings will be governed by 283—Chapter 4.

10.2(6) Offset against federal income tax refund or rebate—general. The commission annually assigns all right, title and interest to certain defaulted reinsured student loans to the U.S. Department of Education for offset against federal income tax refunds or rebates. This offset procedure is conducted by the U.S. Department of Education under regulations promulgated by the U.S. Department of Education.

These rules are intended to implement Iowa Code section 261.37.

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◊Two ARCs.

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